

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 992 of 1988

with

SPECIAL CIVIL APPLICATION No 1181 of 1988

with

SPECIAL CIVIL APPLICATION No 1183 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
  5. Whether it is to be circulated to the Civil Judge? : NO

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YOGESHBHAI B. PAREKH

Versus

PRINCIPAL- C.U. SHAH SCIENCE COLLEGE  
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Appearance:

1. Special Civil Application No. 992 of 1988  
MS KJ BRAHMBHATT for Petitioner  
MR RD DAVE for Respondent No. 1  
GOVERNMENT PLEADER for Respondent No. 2  
NANAVATI & NANAVATI for Respondent No. 3  
NOTICE SERVED for Respondent No. 4

MR BP TANNA for Respondent No. 5

MR AD OZA for Respondent No. 6

2. Special Civil Application No 1181 of 1988

MR BP TANNA for Petitioner

MR AD OZA for Respondent No. 1

MR RD DAVE for Respondent No. 2

GOVERNMENT PLEADER for Respondent No. 3

NANAVATI & NANAVATI for Respondent No. 4

MR SN SHELAT for Respondent No. 5

MS VASUBEN P SHAH for Respondent No. 6

3. Special Civil Application No 1183 of 1988

NANAVATI & NANAVATI for Petitioner

MR RD DAVE for Respondent No. 1

GOVERNMENT PLEADER for Respondent No. 2

MR SN SHELAT for Respondent No. 3

MS VASUBEN P SHAH for Respondent No. 4

MR BP TANNA for Respondent No. 5

MR AD OZA for Respondent No. 6

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 21/11/2000

ORAL JUDGEMENT

#. This group of writ petitions arise from the order of the Gujarat Affiliated Colleges Services Tribunal, Ahmedabad, dated 23rd February, 1988 in Application No.105 of 1987. Shri Ramubhai Joitaram Prajapati, one of the respondents in these three petitions filed application in which challenge has been made to the appointments of the petitioners in special civil applications No.992/88 and 1181/88 made after selection on the post of Lab. Assistant in the C.U.Shah Science College, Ahmedabad. His grievance was that as per the Ordinance No.168 of the Gujarat University Act the post of Lab. Assistant was to be filled in by the mode of recruitment, i.e. promotion from the lower cadre, i.e Class-IV. He was claiming himself to be eligible for promotion to the post of Lab. Assistant as he had one year experience in Laboratory and was holding permanent post. The Tribunal accepted his this contention partly but had not given direction straightway to give him appointment on the post of Lab. Assistant by promotion. It was made open to the management to consider the case of all eligible candidates in the feeder cadre from which promotion is provided to the post of Lab. Assistant including that person and then to make appointments by

promotion.

#. So far as aforesaid petitioners are concerned, their appointments on the post of Lab.Assistant were not quashed. It was ordered by the Tribunal that after undertaking the exercise of making promotion to the post of Lab.Assistant. the management to take appropriate decision regarding those who have been appointed from outside. The management has also challenged this judgment before this court by filing special civil application No.1183/88.

#. During the pendency of these petitions, Ramubhai Joitaram Prajapati has been promoted to the post of Junior Clerk in 1988 and then to the post of Lab.Assistant on 2.1.91.

#. Shri Dipak R. Dave, learned counsel who is appearing for Shri A.D. Oza, for Ramubhai J. Prajapati, submitted on instructions from his client that the respondent is satisfied with his promotion to the post of Junior Clerk with effect from 1.8.88 and his further promotion on the post of Lab. Assistant from 2.1.1991. He further states that his client Ramubhai will not make any claim for deemed date of promotion on the post of Lab. Assistant or Senior Clerk.

#. In view of this statement made by learned counsel appearing for Ramubhai Joitaram Prajapati, nothing substantial survives in these special civil applications.

#. However, the learned counsel for the management submitted that the decision given by the Tribunal that the post of Lab. Assistant to be filled in by promotion is wholly erroneous and in case these petitions are dismissed, it will be taken to be a precedent in the college and further the management has to act in accordance with that decision. The learned counsel for the management further made it clear that it will not terminate the services of the petitioners in special civil application No.992/88 and special civil application No.1181/88.

#. I find sufficient merits in this apprehension which has been shown by learned counsel for the management. It is made clear that the decision of the Tribunal may not be taken to be a precedent for all the time to come. This decision is only relevant for the purpose of deciding the case of Ramubhai Joitaram Prajapati. In case in future, such question arises, the matter has to

be decided by the Tribunal in accordance with law without being influenced by this decision.

#. In view of the statement made by Mr.Dipak Dave, the learned counsel appearing for Ramubhai Joitaram Prajapati, no grievance of this person survives and in fact, the application filed by him before the Tribunal itself becomes infructuous. Be that as it may, in view of this statement, nothing substantial survives in these matters more so when the management is also supporting the appointments of the petitioners made on the post of Lab. Assistant as they are continued for all these years on this post and they would have also attained by now the status of permanency in service.

#. In the result, all these special civil applications are dismissed as having become infructuous in view of the statement made by Mr.Dipak Dave. Rule discharged in all these three petitions. Interim relief, if any granted in these matters, stands vacated. The parties are directed to bear their own costs of this litigation.

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(sunil)